




INDEPENDENT WOMEN'S FORUM

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FAX

To: Ms. Renata B. Hesse

From: Nancy Pfotenhauer 

Company: Department of Justice

Phone:

FAX: 202-616-9937

Date: 01/28/02

Re: Microsoft Settlement

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INDEPENDENT WOMEN'S FORUM

January 28, 2002

Ms. Renata B. Hesse
Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530-0001

SUBJECT: Microsoft Settlement

Dear Ms. Hesse:

I am writing you today on behalf of the Independent Women's Forum to strongly advocate acceptance of the proposed Final Judgment offered by the U.S. Department of Justice (and endorsed by nine state attorneys general) to resolve the antitrust case against Microsoft Corporation. The Independent Women's Forum (IWF) is a non-partisan organization that focuses on issues that matter to women. We were formed in 1992 and have counted among our members some of the most credentialed legal scholars, economists and policy experts in our nation's capitol and across the country.

As president of IWF, I am convinced that technological innovation is essential to enabling women to meet the competing pressures of our lives. When we speak with working mothers across the country it is clear that the most difficult challenge they face is balancing the demands of work and family. As a mother of five who works full time, I can tell you that I would have voted in a 34 hour day a long time ago if that were possible. Without the aide of technology, I do not believe it would have been possible for me to succeed at work and at home. For this reason – and for those detailed below – I was shocked at the government's initial attack on a company that has brought consumers so much innovation and quality of life enhancing products.

As a professional economist, this proposed settlement quite frankly seems more than generous on the part of Microsoft. Any prolonging of the matter seems unjustified on economic or legal criteria. Candidly, it seems more motivated by competitors who would rather use government as a tool to hobble their commercial adversary than by any supportable antitrust theory. Even the Court of Appeals concluded that only *inferential* evidence exists that there is any causal link between Microsoft's conduct and its continuing position in the market.

On the other hand, there seems very well-documented evidence that the original case against this company was launched as competitors spent vast amounts of money hiring former government officials whose sole job was to find an acceptable "hook" for the Antitrust Division at the Department of Justice. Additionally, the judge's very public comments to the media evoked an image of the old Salem witch-trials. As you are aware, the Court of Appeals criticized him sharply. Unfortunately, by then, most of the public damage to Microsoft's reputation had been done. We are concerned that this entire exercise will dissuade others from taking the entrepreneurial risks inherent in creating new products for consumers.

The IWF calls on the Department of Justice to accept the settlement that the federal government and the attorneys general of nine states have already approved. As female consumers who desperately want and need top quality technology products at reasonable prices in order to balance the twin pressures of work and family, we ask you to end this legal wrangling that benefits no one and costs millions of taxpayer dollars.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Nancy Pfotenhauer". The signature is fluid and cursive, with a large loop at the end.

Nancy M. Pfotenhauer
President, The Independent Women's Forum